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ABSTRACT

This sixth chapter of "The Yearbook of School Law, 1986" identifies 354 state and federal court decisions handed down in 1985 affecting local district boards of education or the property of institutions of elementary, secondary, and higher education. Topics involve the relative power of school boards of education and state officials; school board meetings, elections, and recall; and student transportation. Cases concerning real property dealt, in 1985, with the boundaries of school property, annexation, eminent domain, zoning, development, roads, property taxes, property sales and leases, and utilities. Building design and construction cases involved bonds, funding, competitive bidding, prevailing wages, roofs, asbestos, design and performance, architect fees, contractor claims, and arbitration. Facility maintenance, operation, and use cases touched on the use of facilities and on personal injuries and property crimes as well. Other cases affecting public school district business related to school desegregation and school closures. The chapter also cites higher education business cases that dealt with state agencies, board authority, desegregation, real property, building design and construction, and facility operation. (PGD)

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INTRODUCTION

Expanding coverage and combining the chapters on Governance and Property has resulted in a 354-case chapter. The combined chapters had only 106 cases as recently as 1982. This "explosion" has prompted a summary form of reporting and, sometimes, mere citations under appropriate headings without discussion.

STATE AGENCIES

In the Fifth Circuit, an action by local school boards against state officials over school land appropriations was barred by the eleventh amendment.[1] The Alabama state superintendent of education could refuse to certify an unqualified candidate for a county superintendent's office.[2] Title to waters diverted on Montana state school trust lands vested in the state.[3] Sovereign immunity was abolished in

1. Papasan v. United States, 756 F.2d 1087 (5th Cir. 1985).
2. Hindman v. Teague, 481 So. 2d 369 (Ala. 1985).
3. Department of State Lands v. Pettibone, 702 P.2d 948 (Mont. 1985).

South Carolina as the result of a school district case.[4] Other cases also were reported.[5]

SCHOOL BOARD AUTHORITY

Bids

Cases involved a food bidder in the Fourth Circuit,[6] a health insurance bidder in Iowa,[7] and others.[8]

Contracts

Cases involved a trailer purchase in Missouri,[9] a coal contract in Pennsylvania,[10] and deceptive trade practices in Texas.[11]

General

Cases involved accreditation in the D.C. Circuit,[12] financial disclosure[13] and participation in emergency evacuation planning for a nuclear power facility[14] in the Second Circuit, energy equipment in Tennessee,[15] and others.[16]

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4. McCall v. Batson, 329 S.E.2d 741 (S.C. 1985).

5. Laura Baker School Ass'n v. Department of Human Servs., 377 N.W.2d 465 (Minn. Ct. App. 1985); Gibson v. Board of Educ., 500 A.2d 27 (N.J. Super. Ct. App. Div. 1985).

6. Sowell's Meats and Servs. v. McSwain, 618 F. Supp. 140 (D.S.C. 1985).

7. Hoefer v. Sioux City Community School Dist., 375 N.W.2d 222 (Iowa 1985).

8. Steelgard, Inc. v. Jannsen, 217 Cal. Rptr. 152 (Cal. Ct. App. 1985); Hines v. Board of Educ., 482 N.E.2d 1000 (Ohio C. P. 1985); Philadelphia Warehousing and Cold Storage v. Hallowell, 490 A.2d 955 (Pa. Commw. Ct. 1985).

9. Hayes v. Reorganized School Dist. No. 4, 699 S.W.2d 95 (Mo. Ct. App. 1985).

10. Clemson Corp. v. McKeesport Area School Dist., 487 A.2d 103 (Pa. Commw. Ct. 1985).

11. Martin v. Lou Poliquin Enters., 696 S.W.2d 180 (Tex. Civ. App. 1985).

12. North Jersey Secretarial School v. National Ass'n of Trade and Technical Schools, 597 F. Supp. 477 (D.D.C. 1984).

13. Kaplan v. Board of Educ., 759 F.2d 256 (2d Cir. 1985).

14. Citizens for an Orderly Energy Policy v. County of Suffolk, 604 F. Supp. 1084 (E.D.N.Y. 1985).

15. Washington County Bd. of Educ. v. MarketAmerica, Inc., 693 S.W.2d 344 (Tenn. 1985).

16. Holy Angels Academy v. Hartford Ins. Group, 487 N.Y.S.2d 1005 (N.Y. Sup. Ct. 1985); California Casualty Ins. Co. v. David Douglas School Dist., 702 P2d 1115 (Or. Ct. App. 1985); Vermilion Parish School Bd. v. Weaver Exploration Co., 474 So. 2d 1032 (La. Ct. App. 1985); Popson v. Henn, 477 N.E.2d 465 (Ohio Ct. App. 1984); Aronson v. City of Pittsburgh, 485 A.2d 890 (Pa. Commw. Ct. 1985); People *ex rel.* Moriarty v. Rutter, 473 N.E.2d 569 (Ill. App. Ct. 1985); Independent School Dist. No. 14 v. Ampro Corp., 361 N.W.2d 138 (Minn. Ct. App. 1985).

SCHOOL BOARD MEETINGS

Cases included a student disciplinary hearing in the Ninth Circuit[17] and others.[18]

SCHOOL BOARD ELECTIONS AND RECALL

Voting

Cases involved minority voting strength in the First Circuit;[19] migrant farm workers,[20] minority voting strength,[21] and school board reapportionment[22] in the Fifth Circuit; court-ordered reapportionment[23] and at-large voting[24] in the Eleventh Circuit; and reapportionment in Pennsylvania.[25] One other case was reported.[26]

Elections

Cases involved equal protection in the Fourth Circuit,[27] an election contest in Arkansas,[28] a "resign to run" statute in Kentucky,[29] libel in New York,[30] a board member's successor in Ohio,[31] and others.[32]

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17. Davis v. Churchill County School Bd. of Trustees, 616 F. Supp. 1310 (D. Nev. 1985).
18. Cape v. Howell Bd. of Educ., 378 N.W.2d 506 (Mich. Ct. App. 1985); Tri-Village Publishers v. St. Johnsville Bd. of Educ., 487 N.Y.S.2d 181 (N.Y. App. Div. 1985); Mitchell v. Board of Educ., 493 N.Y.S.2d 826 (N.Y. App. Div. 1985); Hitt v. Mabry, 687 S.W.2d 791 (Tex. Civ. App. 1985).
19. Latino Political Action Comm. v. City of Boston, 609 F. Supp. 739 (D. Mass. 1985).
20. Garcia v. Guerra, 744 F.2d 1159 (5th Cir. 1984).
21. Wyche v. Madison Parish Police Jury, 769 F.2d 265 (5th Cir. 1985).
22. Seastrunk v. Burns, 772 F.2d 143 (5th Cir. 1985).
23. Edge v. Sumter County School Dist., 775 F.2d 1509 (11th Cir. 1985).
24. Clark v. Marengo County, 623 F. Supp. 33 (S.D. Ala. 1985).
25. School Dist. v. Allegheny County Bd. of Elections, 488 A.2d 1106 (Pa. 1985).
26. State v. Board of Trustees, 474 N.E.2d 520 (Ind. Ct. App. 1985).
27. Peters v. Moses, 613 F. Supp. 1328 (W.D. Va. 1985).
28. Loyd v. Keathley, 682 S.W.2d 739 (Ark. 1985).
29. Yonts v. Commonwealth, 700 S.W.2d 407 (Ky. 1985).
30. Pace v. Rebore, 485 N.Y.S.2d 291 (N.Y. App. Div. 1985).
31. State v. Viebranz, 483 N.E.2d 1176 (Ohio 1985).
32. Samora v. McCracken, 213 Cal. Rptr. 518 (Cal. Ct. App. 1985); Leray v. Mullican, 456 So. 2d 1038 (La. Ct. App. 1984); New Jersey Election Law Enforcement Comm'n v. Brown, 502 A.2d 59 (N.J. Super. Ct. App. Div. 1985); Capobianco v. Ambach, 492 N.Y.S.2d 157 (N.Y. App. Div. 1985).

Recall

Cases involved a recall petition in Alaska,[33] "name withdrawal" petitions in New Mexico,[34] recall grounds in Washington,[35] and a required number of petitioners in Louisiana.[36]

STUDENT TRANSPORTATION

Cases involved a bus service bid in Alaska,[37] a service fee in North Dakota,[38] private student transportation in Ohio[39] and Rhode Island,[40] the duty to provide bus service in West Virginia,[41] and others.[42]

DESEGREGATION

Final orders were appropriate in a First Circuit school desegregation case requiring the district to implement a unified plan for improving its facilities.[43] In the Fifth Circuit, a school district's plan to build and renovate schools was found not likely to reestablish a segregated system.[44] A school desegregation plan was approved in the Fifth Circuit which established "magnet" schools.[45] In the Sixth Circuit, a state was ordered to assume 60% of the costs of a school district's desegregation program.[46] Under the proposed settlement agreement in an Eighth Circuit school desegregation case, the state was obligated

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33. Meiners v. Bering Strait School Dist., 687 P.2d 287 (Alaska 1984).
34. State *ex rel.* Citizens for Quality Educ. v. Gallagher, 697 P.2d 935 (N.M. 1985).
35. Teaford v. Howard, 707 P.2d 1327 (Wash. 1985); Estey v. Dempsey, 707 P.2d 1338 (Wash. 1985).
36. Page v. Madere, 469 So. 2d 1036 (La. Ct. App. 1985).
37. State v. Northern Bus Co., 693 P.2d 319 (Alaska 1984).
38. Bismarck Pub. Schools v. Walker, 370 N.W.2d 565 (N.D. 1985).
39. Pushay v. Walter, 481 N.E.2d 575 (Ohio 1985).
40. Cumberland School Comm. v. Harnois, 499 A.2d 752 (R.I. 1985).
41. Sigmon v. Board of Educ., 324 S.E.2d 352 (W. Va. 1984).
42. Siegman v. Board of Educ., 477 N.E.2d 241 (Ill. App. Ct. 1985); Burt v. Board of Educ., 477 N.E.2d 247 (Ill. App. Ct. 1985); Pioneer Transp. Corp. v. Kaladjian, 481 N.Y.S.2d 136 (N.Y. App. Div. 1984), *see* The Yearbook of School Law 1985 at 16; Frame v. South Bend Community School Corp., 480 N.E.2d 261 (Ind. Ct. App. 1985).
43. Morgan v. Nucci, 617 F. Supp. 1316 (D. Mass. 1985); Morgan v. Nucci, 620 F. Supp. 214 (D. Mass. 1985).
44. United States v. Lawrence County School Dist., 606 F. Supp. 820 (S.D. Miss. 1984).
45. United States v. Mississippi, 622 F. Supp. 622 (S.D. Miss. 1985).
46. Kelley v. Metropolitan County Bd. of Educ., 615 F. Supp. 1139 (M.D. Tenn. 1985).

to pay full capital and operating costs of new "magnet" schools.[47] An interdistrict remedy was justified in the Eighth Circuit, in response to the submission of school desegregation plans, where a district had committed several violations.[48] In response to an Eleventh Circuit class action effort to enjoin a local school board from expanding and constructing certain facilities to relieve overcrowding at a high school with predominately white students, discriminatory intent need not be proven for an injunction.[49] Other cases were reported.[50]

REAL PROPERTY

Boundaries

In Nebraska, an order against the state regarding boundary corners common to school and private lands was reversed.[51] In a North Dakota action to determine boundaries of "original grant" school lands, the doctrine of adverse possession may be applied.[52]

Attachment and Detachment

Cases involved a city establishing a separate school system in Alabama,[53] the reasonableness of a proposed annexation in Mississippi,[54] challenged annexation in North Dakota,[55] two towns' effort to create a new school district in Wyoming,[56] and others.[57]

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47. Liddell v. Board of Educ., 758 F.2d 290 (8th Cir. 1985). *See* The Yearbook of School Law 1985 at 122-23 and 286.

48. Little Rock School Dist. v. Pulaski County Special School Dist. No. 1, 778 F.2d 404 (8th Cir. 1985). *See* The Yearbook of School Law 1985 at 124, 145, and 285-86.

49. Pitts v. Freeman, 755 F.2d 1423 (11th Cir. 1985).

50. Trahan v. Lafayette Parish School Bd., 616 F. Supp. 220 (W.D. La. 1985); Whittenberg v. School Dist., 607 F. Supp. 289 (D.S.C. 1985).

51. State v. Jarchow, 362 N.W.2d 19 (Neb. 1985).

52. Cook v. Clark, 375 N.W.2d 181 (N.D. 1985).

53. Marshall County Bd. of Educ. v. City of Albertville, 479 So. 2d 1127 (Ala. 1985).

54. Western Line Consol. School Dist. v. City of Greenville, 465 So. 2d 1057 (Miss. 1985). *See* The Yearbook of School Law 1984 at 246.

55. *In re* Donnybrook Pub. School Dist. No. 24, 365 N.W.2d 514 (N.D. 1985).

56. Citizens of Otto v. Wyoming State Comm. for School Dist. Org., 705 P.2d 831 (Wyo. 1985).

57. San Dieguito Union High School Dist. v. Rosander, 217 Cal. Rptr. 737 (Cal. Ct. App. 1985); Robinson v. Regional Bd. of School Trustees, 474 N.E.2d 708 (Ill. App. Ct. 1985); Board of Educ. v. Regional Bd. of School Trustees, 481 N.E.2d 1266 (Ill. App. Ct. 1985); Kumley v. Polk County Dist. Boundary Bd., 706 P.2d 562 (Or. Ct. App. 1985); Upshur County Comm'rs Court v. Central Educ. Agency, 697 S.W.2d 443 (Tex. Civ. App. 1985).

Eminent Domain

A Georgia school district could condemn part of a parcel of property for a building site with the remainder subject to reversion.[58] Massachusetts landowners whose land was taken by a school district were entitled to interest on their damages at a rate of 10% from the year of taking, even though 6% was the statutory rate initially.[59] One other case was reported.[60]

Zoning

In the Eleventh Circuit, city ordinances were held unconstitutional which prohibited establishments dispensing alcoholic beverages from permitting nudity if they were located within 750 feet of specific public uses, such as schools.[61] Owners who had purchased Indiana school property used as a "bus barn" were denied a zoning variance to operate a maintenance garage in the residential neighborhood.[62] There was no justification for a New Jersey township zoning ordinance which prohibited gasoline station use within 500 feet of specific public uses, such as schools.[63] In New York, a special use permit was denied for the establishment of a shopping center because it would create a safety hazard to children attending an adjacent elementary school.[64] An Oregon city could require a church to obtain a conditional use permit to operate a school on its premises.[65] Other cases were reported.[66]

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58. Gordy v. Cobb County School Dist., 334 S.E.2d 688 (Ga. 1985).

59. Hargrove v. Minuteman Regional Vocational Technical School Dist., 476 N.E.2d 961 (Mass. 1985).

60. Northeast Parent & Child Society v. City of Schenectady Indus. Dev. Agency, 494 N.Y.S.2d 503 (N.Y. App. Div. 1985).

61. International Food & Beverage Systems v. City of Fort Lauderdale, 614 F. Supp. 1517 (S.D. Fla. 1985).

62. Maxey v. Board of Zoning Appeals, 480 N.E.2d 589 (Ind. Ct. App. 1985).

63. Exxon Co. v. Township of Livingston, 489 A.2d 1218 (N.J. Super. Ct. App. Div. 1985).

64. Market Square Properties v. Town of Guilderland Zoning Bd. of Appeals, 491 N.Y.S.2d 519 (N.Y. App. Div. 1985).

65. Medford Assembly of God v. City of Medford, 695 P2d 1379 (Or. Ct. App. 1985), *see* The Yearbook of School Law 1985 at 258; Medford Assembly of God v. City of Medford, 106 S.Ct. 570 (1985).

66. Visionquest Nat'l, Ltd. v. Pima County Bd. of Adjustment Dist. No. 1, 703 P2d 1252 (Ariz. Ct. App. 1985); Van Duyne v. City of Crest Hill, 483 N.E.2d 1307 (Ill. App. Ct. 1985); Lutheran High School Ass'n v. City of Farmington Hills, 381 N.W.2d 417 (Mich. Ct. App. 1985); Commco, Inc. v. Amelkin, 486 N.Y.S.2d 305 (N.Y. App. Div. 1985), *see* The Yearbook of School Law 1985 at 258.

Development

A California school district's imposition of school impact fees on a developer of a residential subdivision was related to the legitimate purpose of mitigating overcrowding in schools caused by development and did not deny the developer equal protection of the law.[67] A California county's approval of a developer's tentative tract map did not preclude it from subsequently imposing school facilities fees as a condition to the issuance of a building permit.[68] School facilities fees could be imposed on a California developer as a condition to the issuance of building permits, even though the developer's final maps were approved and recorded four years prior to the city's adoption of the fee authorization ordinance.[69] A Louisiana city ordinance requiring city council approval of sites for new schools was constitutional.[70] In Maryland, a regional swimming pool complex serving twenty-five schools and 180 people was inconsistent with local use and its construction adjacent to a townhouse development was enjoined.[71] A Mississippi county satisfied its burden of proof to establish that a real estate developer owed it school building taxes.[72] A Pennsylvania borough was entitled to building permit fees prior to a school building renovation project; its permit and inspection requirements were not preempted by the fire and panic act, school code, or administrative code.[73] One other case was reported.[74]

Roads

Where a Mississippi school district's noncompliance with a city's off-street parking ordinance caused a public nuisance in the form of

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67. Candid Enters., Inc. v. Grossmont Union High School Dist., 705 P.2d 876 (Cal. 1985). *See* The Yearbook of School Law 1984 at 250.

68. Laguna Village, Inc. v. County of Orange, 212 Cal. Rptr. 267 (Cal. Ct. App. 1985).

69. Fontana Unified School Dist. v. City of Rialto, 219 Cal. Rptr. 254 (Cal. Ct. App. 1985).

70. Orleans Parish School Bd. v. City of New Orleans, 468 So. 2d 709 (La. Ct. App. 1985).

71. Chester v. Gilchrist, 497 A.2d 820 (Md. Ct. Spec. App. 1985).

72. W.H. Hopper & Assocs. v. DeSoto County, 475 So. 2d 1149 (Miss. 1985).

73. Skepton v. Borough of Northampton, 486 A.2d 1022 (Pa. Commw. Ct. 1985).

74. Council Rock School Dist. v. G.D.L. Plaza Corp., 496 A.2d 1298 (Pa. Commw. Ct. 1985).

street obstruction by traffic, injunctive relief was available to an adjacent landowner whose street access was obstructed.[75]

Property Taxes

Forty-three cases were reported, involving an advisory opinion[76] and tax apportionment in Alabama;[77] delinquent tax interest in Kansas;[78] tax allocation in Missouri;[79] tax exemptions in Montana,[80] New York,[81] and Ohio;[82] a tax levy for a nonhigh school district in Nebraska;[83] property valuation in Ohio;[84] tax referendum validity in Tennessee;[85] taxable property boundaries in Texas;[86] and others.[87]

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75. Robinson v. Indianola Mun. Separate School Dist., 467 So. 2d 911 (Miss. 1985).

76. *In re* Opinion of the Justices, 469 So. 2d 110 (Ala. 1985).

77. Dale County Bd. of Educ. v. Daleville City Bd. of Educ., 472 So. 2d 1037 (Ala. 1985).

78. Unified School Dist. No. 490 v. Board of County Comm'rs, 697 P.2d 64 (Kan. 1985).

79. Nell Holcomb Reorg. School Dist. No. R-4 v. Jackson Reorg. School Dist. No. R-2, 685 S.W.2d 565 (Mo. 1985).

80. Department of Revenue v. New Life Fellowship, 703 P.2d 860 (Mont. 1985).

81. Walker v. Board of Assessors, 487 N.E.2d 276 (N.Y. 1985). *See* The Yearbook of School Law 1985 at 264.

82. Peoples Faith Chapel v. Limbach, 480 N.E.2d 781 (Ohio 1985).

83. *In re* Box Butte County Bd. of Equal., 374 N.W.2d 235 (Neb. 1985).

84. Black v. Board of Revision, 475 N.E.2d 1264 (Ohio 1985).

85. Gibson County Special School Dist. v. Palmer, 691 S.W.2d 544 (Tenn. 1985).

86. Oake v. Collin County, 692 S.W.2d 454 (Tex. 1985).

87. Tri-Cities Children's Center v. Alameda County Bd. of Supervisors, 212 Cal. Rptr. 541 (Cal. Ct. App. 1985); Arvin Union School Dist. v. Ross, 221 Cal. Rptr. 720 (Cal. Ct. App. 1985); J.A.T.T. Title Holding Corp. v. Roberts, 328 S.E.2d 770 (Ga. Ct. App. 1985); Citizens Utils. Co. v. Illinois Pollution Control Bd., 478 N.E.2d 853 (Ill. App. Ct. 1985); St. Charles Parish School Bd. v. Louisiana Power and Light Co., 465 So. 2d 93 (La. Ct. App. 1985); Louisiana Tax Collections, Inc. v. Bear Creek Storage Co., 474 So. 2d 1337 (La. Ct. App. 1985); Prudential Ins. Co. of Am. v. Oak Park School Dist., 370 N.W.2d 20 (Mich. Ct. App. 1985); City of Detroit v. Alsip, 378 N.W.2d 603 (Mich. Ct. App. 1985); Grand Rapids Pub. Schools v. City of Grand Rapids, 381 N.W.2d 783 (Mich. Ct. App. 1985); Harper Creek School Dist. v. Leroy Township Supervisor and Assessor, 382 N.W.2d 172 (Mich. Ct. App. 1985); Salisbury R-IV School Dist. v. Westran R-I School Dist., 686 S.W.2d 491 (Mo. Ct. App. 1984); Cottonwood Gulch Found. v. Gutierrez, 699 P.2d 140 (N.M. Ct. App. 1985); Yehudi v. Assessor of Ramapo, 486 N.Y.S.2d 63 (N.Y. App. Div. 1985); Shoreham-Wading River Cent. School Dist. v. Town of Brookhaven, 486 N.Y.S.2d 277 (N.Y. App. Div. 1985); Board of Educ. v. State, 488 N.Y.S.2d 887 (N.Y. App. Div. 1985); Expressway Village, Inc. v. Brearly, 492 N.Y.S.2d 206 (N.Y. App. Div. 1985); Chartiers Valley School Dist. v. Virginia Mansions Apts., 489 A.2d 1381 (Pa. Super Ct. 1985); Pier 30 Assocs. v. School Dist., 493 A.2d 126 (Pa. Commw. Ct. 1985); *In re* Exton Dev., 494 A.2d 34 (Pa. Commw. Ct. 1985); Cox v. City of Chester, 494 A.2d 50 (Pa. Commw. Ct. 1985); Bradshaw v. Southern Fulton School Dist., 494 A.2d 76 (Pa. Commw. Ct. 1985); Tax Claim Bureau v. Chichester School Dist., 498 A.2d 44 (Pa. Commw. Ct. 1985); RHM Assocs. v. Neshaminy School

Property Sales and Leases

A California school district's agreement to sell property to its former owner was voided when the high bidder for the property brought an action against the district, former owner, and assignee.[88] An Idaho school district was required by contract to build a fence around purchased farmland, even though contemplated construction on the land was cancelled due to failure of a bond election.[89] A Mississippi county board of education had the authority to draw up a renewal lease for school trust land, impose certain conditions, and require lessee's signature.[90] A Nebraska school district lacked standing to challenge a city airport authority's land purchase.[91] A New York board of education could properly consider future tax consequences of a proposed sale of unneeded school property in determining which of two nearly identical offers would result in the best sale price.[92] Other cases were reported.[93]

Utilities

A California school district could not use a county's solid waste disposal facilities without charge.[94] A California water district could

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Dist., 498 A.2d 1010 (Pa. Commw. Ct. 1985); *In re* Borough of W. View, 501 A.2d 706 (Pa. Commw. Ct. 1985); Ripley v. Stephens, 686 S.W.2d 757 (Tex. Civ. App. 1985); Arnold v. Crockett Indep. School Dist., 688 S.W.2d 884 (Tex. Civ. App. 1985); Aldine Indep. School Dist. v. Moore, 694 S.W.2d 454 (Tex. Civ. App. 1985); Sharp v. Sinton Indep. School Dist., 696 S.W.2d 592 (Tex. Civ. App. 1985); Lampson v. South Park Indep. School Dist., 698 S.W.2d 407 (Tex. Civ. App. 1985); Valero Transmission Co. v. Hays Consol. Indep. School Dist., 704 S.W.2d 857 (Tex. Civ. App. 1985), *see* The Yearbook of School Law 1984 at 234-35 and 264; Janesville Community Day Care Center v. Spoden, 376 N.W.2d 78 (Wis. Ct. App. 1985); Elkhorn Area School Dist. v. East Troy Community School Dist., 377 N.W.2d 627 (Wis. Ct. App. 1985).

88. Hudson Properties Co. v. Governing Bd., 213 Cal. Rptr. 909 (Cal. Ct. App. 1985). *See* The Yearbook of School Law 1985 at 266-67.

89. Abel v. School Dist. No. 413, 703 P.2d 1357 (Idaho Ct. App. 1985).

90. Turney v. Marion County Bd. of Educ., 481 So. 2d 770 (Miss. 1985).

91. Nebraska School Dist. No. 148 v. Lincoln Airport Auth., 371 N.W.2d 258 (Neb. 1985).

92. New City Jewish Center v. Flagg, 490 N.Y.S.2d 560 (N.Y. App. Div. 1985).

93. Logan v. Armstrong, 694 S.W.2d 68 (Tex. Civ. App. 1985); McFarland v. Joint School Dist. No. 365, 700 P.2d 141 (Idaho Ct. App. 1985); Rosenshein v. Board of Educ., 488 N.Y.S.2d 214 (N.Y. App. Div. 1985); Board of Educ. v. Greene, 491 N.Y.S.2d 409 (N.Y. App. Div. 1985); Anderson v. Jackson County Bd. of Educ., 333 S.E.2d 533 (N.C. Ct. App. 1985); School Dist. 16-R v. Peterson, 706 P.2d 198 (Or. Ct. App. 1985); Neis v. Board of Educ., 381 N.W.2d 614 (Wis. Ct. App. 1985).

94. Anaheim City School Dist. v. County of Orange, 210 Cal. Rptr. 722 (Cal. Ct. App. 1985).

validly collect a sewer capacity right fee from a school district.[95] A Kentucky county could impose sewer user charges on a county board of education and base them on water volume used.[96] One other case was reported.[97]

BUILDING DESIGN AND CONSTRUCTION

Bonds

Public education capital outlay bonds were validated in an action brought by the Florida state board of education.[98] A Tennessee city's incidental use of facilities by elementary school students gave it no right to any proceeds from high school improvement bonds issued by the county.[99] In Texas, an independent school district has no authority to issue tax increment bonds.[100] A Texas school district's use of bond proceeds to build an indoor swimming pool was authorized, even though other uses were described by the superintendent at community meetings prior to the bond's approval by voters.[101] Refunding bonds may be issued in West Virginia without voter approval, but cannot increase the total indebtedness authorized by voters on the original bond issue.[102] Other cases were reported.[103]

Funding

A tribal school board's motion seeking to have the federal government set aside funds to renovate a high school was denied by the Claims Court.[104] One other case was reported.[105]

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95. San Marcos Water Dist. v. San Marcos Unified School Dist., 217 Cal. Rptr. 260 (Cal. Ct. App. 1985).

96. Board of Educ. v. Lexington-Fayette Urban County Gov't, 691 S.W.2d 218 (Ky. Ct. App. 1985).

97. Air Eng'rs, Inc. v. Commonwealth, 496 A.2d 1262 (Pa. Commw. Ct. 1985).

98. State v. State Bd. of Educ., 467 So. 2d 294 (Fla. 1985).

99. City of Newport v. Cocke County, 703 S.W.2d 626 (Tenn. Ct. App. 1985).

100. El Paso County Community College Dist. v. City of El Paso, 698 S.W.2d 248 (Tex. Civ. App. 1985).

101. Davis v. Duncanville Indep. School Dist., 701 S.W.2d 15 (Tex. Civ. App. 1985).

102. Board of Educ. v. Slack, 327 S.E.2d 416 (W. Va. 1985).

103. Phillips v. Maurer, 486 N.Y.S.2d 804 (N.Y. App. Div. 1985); Phillips v. Anderson County, 698 S.W.2d 76 (Tenn. Ct. App. 1985).

104. Busby School of Cheyenne Tribe v. United States, 8 Ct. Cl. 588 (1985).

105. Kent County Educ. Ass'n v. Wyoming Bd. of Educ., 378 N.W.2d 778 (Mich. Ct. App. 1985).

Competitive Bids

The low bidder on an Arizona school construction contract could refuse to enter into the contract without forfeiting its bid bond due to a good faith mistake of $400,000 on a bid of $5,000,000.[106] The low bidder on a Connecticut school construction contract could argue the defense of unilateral mistake for a $100,000 error in its bid when it promptly notified the school board of its error.[107] The low bidder on an Illinois school construction contract had standing to challenge the school board's award to the second lowest bidder.[108] In Iowa, neither taxpayers nor an unsuccessful bidder on school construction contracts had standing to allege bidding violations in the letting of the contracts.[109] A Pennsylvania school district was entitled to forfeiture of the low bidder's surety bond for failure to perform a plumbing contract.[110]

Prevailing Wages

In New Jersey, prevailing wage requirements apply to all workers, whether or not they are principals of a contractor performing a public works project.[111] Other labor cases were reported.[112]

Roofs

More than five years after accepting a certificate of completion on a Florida school, the school board's suit against the contractor and its surety for latent defects in the roof was barred as untimely.[113] A six-year statute of limitations applied to a New York school district's action against an architect and contractor for roof defects, but it was tolled for as long as the confidential professional relationship existed

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106. Marana Unified School Dist. No. 6 v. Aetna Casualty and Sur. Co., 696 P.2d 711 (Ariz. Ct. App. 1984).

107. Regional School Dist. No. 4 v. United Pac. Ins. Co., 493 A.2d 895 (Conn. Ct. App. 1985).

108. L.E. Zannini & Co. v. Board of Educ., 486 N.E.2d 424 (Ill. App. Ct. 1985).

109. Elview Constr. Co. v. North Scott Community School Dist., 373 N.W.2d 138 (Iowa 1985).

110. Muncy Area School Dist. v. Gardner, 497 A.2d 683 (Pa. Commw. Ct. 1985).

111. Department of Labor v. Titan Constr. Co., 504 A.2d 7 (N.J. 1985).

112. Local Union No. 501, IBEW v. NLRB, 756 F.2d 888 (D.C. Cir. 1985); Painters Local Union No. 164 v. Epley, 764 F.2d 1509 (11th Cir. 1985).

113. School Bd. v. Fidelity Co. of Md., 468 So. 2d 431 (Fla. Dist. Ct. App. 1985).

between the school board and architect—not the contractor.[114] Joinder of the contractor was proper in a Pennsylvania school district's action against an engineer for defective roof design and repair.[115] In South Carolina, numerous attempts to repair a defective roof and assurances by the architect, contractor, and roofer that the problems would be corrected invited a school district's delay in bringing suit, but did not toll the statute of limitations.[116] One other case was reported.[117]

Asbestos

Defendants' federal motion to consolidate twenty pretrial proceedings in the asbestos school products liability litigation was denied in the face of great opposition, inconvenience, and inefficiency.[118] A class action on behalf of all schools and school districts in the nation against a Chapter 11 debtor asbestos products company was not allowed in bankruptcy court.[119] In the First Circuit, a school district could bring actions against an asbestos products company in contract, fraud, negligence, and strict liability, but not in indemnity, nuisance, restitution, trespass, or warranty.[120] In the Third Circuit, a class consisting of essentially all public school districts and private schools in the nation was conditionally certified in an action to recover costs incurred in undertaking asbestos abatement, a limited class for punitive damages was conditionally certified and tested, and subsequent motions were denied pending the appeal of the original class order.[121] An Ohio class action by some public and private schools against asbestos products manufacturers and installers was not allowed.[122]

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114. Board of Educ. v. Thompson Constr. Corp., 488 N.Y.S.2d 880 (N.Y. App. Div. 1985).

115. Derry Township School Dist. v. Day & Zimmerman, Inc., 498 A.2d 928 (Pa. Super. Ct. 1985). *See* The Yearbook of School Law 1985 at 274.

116. Dillon County School Dist. No. 2 v. Lewis Sheet Metal Works, 332 S.E.2d 555 (S.C. Ct. App. 1985).

117. Asheville School v. D.V. Ward Constr., 337 S.E.2d 659 (N.C. Ct. App. 1985).

118. *In re* Asbestos School Prods. Liab. Litig., 606 F. Supp. 713 (J.P.M.D.L. 1985).

119. Dade County School Dist. v. Johns-Manville Corp., 53 Bankr. 346 (S.D.N.Y. 1985).

120. Town of Hooksett School Dist. v. W.R. Grace and Co., 617 F. Supp. 126 (D.N.H. 1984).

121. *In re* Asbestos School Litig., 104 F.R.D. 422 (E.D. Pa. 1984); *In re* Asbestos School Litig., 107 F.R.D. 215 (E.D. Pa. 1985); *In re* Asbestos School Litig., 620 F. Supp. 873 (E.D. Pa. 1985); *In re* Asbestos School Litig., 107 F.R.D. 369 (E.D. Pa. 1985).

122. Cleveland Bd. of Educ. v. Armstrong World Indus., 476 N.E.2d 397 (Ohio C.P. 1985).

Design and Performance

In the Seventh Circuit, a school district's action against a contractor's surety bond was stayed pending the outcome of its state court suit.[123] An Alabama school board had no obligation to accept a landscaper's proposed subcontractor.[124] A California school district's action against an architect, contractor, soils engineer, and surety for faulty construction of a high school gym was dismissed for lack of prosecution.[125]

Architect Fees

An architect could not recover from a New York school district for work allegedly performed where the complaint failed to allege a timely notice of claim.[126] A school classroom designer's fine by the Oregon board of architect examiners for the unlicensed practice of architecture was affirmed.[127]

Contractor Claims

In the Second Circuit, when a city board of education withheld payments due a contractor without a hearing, it did not violate the contractor's due process rights.[128] A supplier's suit against an Alabama school board, superintendent, and board members for work on a building project was barred by governmental immunity.[129] A contractor's suit for delay damages against Indiana school building corporations for a community schools remodeling project would not be treated according to the same stringent requirements imposed on the filing of additional cost claims.[130] In Nebraska, both a contractor and a school district were responsible for certain charges imposed by a utility in

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123. Community Consol. School Dist. No. 59 v. United States Fidelity and Guar. Co., 626 F. Supp. 461 (N.D. Ill. 1985).

124. Gradco, Inc. v. St. Clair County Bd. of Educ., 477 So. 2d 365 (Ala. 1985).

125. San Ramon Valley Unified School Dist. v. Wheatley-Jacobsen, Inc., 221 Cal. Rptr. 342 (Cal. Ct. App. 1985).

126. Murray v. LeRoy Cent. School Dist., 492 N.Y.S.2d 203 (N.Y. App. Div. 1985).

127. Merrill v. Board of Architect Examiners, 693 P.2d 1317 (Or. Ct. App. 1985); Merrill v. Board of Architect Examiners, 706 P.2d 556 (Or. 1985).

128. Signet Constr. Corp. v. Borg, 775 F.2d 486 (2d Cir. 1985).

129. Warrior Hinkle, Inc. v. Andalusia City School Bd., 469 So. 2d 1285 (Ala. 1985).

130. Osolo School Bldgs., Inc. v. Thorleif Larsen & Son of Ind., Inc., 473 N.E.2d 643 (Ind. Ct. App. 1985).

connection with construction of a building, and the district was not entitled to indemnity from the architect.[131] In a contractor's action against an Oklahoma school district for breach of an alleged agreement to appoint it as the district's purchasing agent on a construction project, the district as prevailing party was not allowed to recover attorney fees and costs.[132] In Texas, it was a question of fact whether a subcontractor on the remodeling of several elementary schools was a third-party beneficiary of the school district's prime construction contract and entitled to payment from the district in the absence of a payment bond.[133] A material supplier to a Washington school construction project, not paid by a subcontractor, sought recovery from the retainage fund too late after filing a notice of claim.[134] An architect acted without malice or bad faith when it advised a Wyoming school board to terminate its construction contract if the contractor refused to replace nonspecified sprinkler heads, despite their preliminary approval.[135] Other cases were reported.[136]

Arbitration

An arbitrator's award to an Arkansas school district against an architect, contractor, and subcontractor for structural defects in a district school was modified to provide for several liability only—not joint and several.[137] An arbitrator's award to a Kansas school board against a contractor was affirmed after the trial court had initially vacated the award.[138] An arbitrator's award denying a New Jersey school board's claim against a contractor for structural problems in a high school was vacated to allow the board's experts to testify, but the board could not consolidate the arbitration with its suit against the

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131. Overland Constructors v. Millard School Dist., 369 N.W.2d 69 (Neb. 1985).

132. Burrows Constr. Co. v. Independent School Dist. No. 2, 704 P.2d 1136 (Okla. 1985).

133. Greenville Indep. School Dist. v. B&J Excavating, Inc., 694 S.W.2d 410 (Tex. Civ. App. 1985).

134. Shope Enters., Inc. v. Kent School Dist., 702 P.2d 499 (Wash. Ct. App. 1985).

135. Dehnert v. Arrow Sprinklers, Inc., 705 P.2d 846 (Wyo. 1985).

136. McClain Co. v. Page & Wirtz Constr. Co., 694 P.2d 1349 (N.M. 1985); Kuchenski v. Kramer Sheet Metal, 377 N.W.2d 133 (N.D. 1985); Coast to Coast Mfg. v. Carnes Constr., Inc., 700 P.2d 499 (Ariz. Ct. App. 1985); Frazier Assocs. Mfrs. Representatives, Inc. v. Dabbs & Stewart, 325 S.E.2d 914 (Ga. Ct. App. 1985); Otis Elevator Co. v. Don Stodola's Well Drilling Co., 372 N.W.2d 77 (Minn. Ct. App. 1985); Jaden Elec. Div. of the Farfield Co. v. Wyoming Valley W. School Dist., 493 A.2d 746 (Pa. Super. Ct. 1985).

137. Wessell Bros. Found. Drilling Co. v. Crossett Pub. School Dist. No. 52, 701 S.W.2d 99 (Ark. 1985).

138. Board of Educ. v. L.R. Foy Constr. Co., 697 P.2d 456 (Kan. 1985).

architect.[139] When a New Mexico school district brought suit against an architect, contractor, and bonding company, the architect's right to compel arbitration was held waived.[140] A New York school board's application to permanently stay an arbitration of claims under a construction contract was denied because the contractor should have been allowed to serve a late notice of claim.[141] One other case was reported.[142]

FACILITY MAINTENANCE, OPERATION, AND USE

Use Of Facilities

Cases included teacher organization access to a public forum in the Supreme Court, *Grand Rapids School Dist. v. Ball*,[143] a peace exposition and the equal access act in the Third Circuit,[144] teacher organization access to a public forum in the Fifth Circuit,[145] prayer meetings in a public forum in the Seventh Circuit,[146] dances and a public forum in the Eighth Circuit,[147] and religious meetings and equal access in the Tenth Circuit.[148]

Personal Injuries

Cases involved a welder's electrocution in Arkansas,[149] a student and a broken window in Connecticut,[150] a student's slip and fall in

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139. Manchester Township Bd. of Educ. v. Thomas P. Carney, Inc., 489 A.2d 682 (N.J. Super. Ct. App. Div. 1985).

140. Board of Educ. v. The Architects, Taos, 709 P2d 184 (N.M. 1985).

141. Nyack Bd. of Educ. v. K. Capolino Design and Renovation, Ltd., 494 N.Y.S.2d 758 (N.Y. App. Div. 1985).

142. Grand Island Cent. School Dist. v. Transcom Equip. Corp., 491 N.Y.S.2d 262 (N.Y. Sup. Ct. 1985).

143. 105 S. Ct. 3216 (1985).

144. Student Coalition for Peace v. Lower Merion School Dist., 618 F. Supp. 53 (E.D. Pa. 1985); Student Coalition for Peace v. Lower Merion School Dist., 776 F.2d 431 (3d Cir. 1985). *See* The Yearbook of School Law 1985 at 109, 110, and 278.

145. Texas State Teachers Ass'n v. Garland Indep. School Dist., 777 F.2d 1046 (5th Cir. 1985).

146. May v. Evansville-Vanderburgh School Corp., 615 F. Supp. 761 (S.D. Ind. 1985).

147. Jarman v. Williams, 753 F.2d 76 (8th Cir. 1985).

148. Bell v. Little Axe Indep. School Dist. No. 70, 766 F.2d 1391 (10th Cir. 1985).

149. Grain Dealers Mut. Ins. Co. v. Porterfield, 695 S.W.2d 833 (Ark. 1985).

150. Bielaska v. Town of Waterford, 491 A.2d 1071 (Conn. 1985).

Florida,[151] a child's fall off of a slide in Georgia,[152] a child's fall from a tree[153] and a gym user's slip and fall[154] in Illinois, a child's fall from gym rings[155] and a student and broken glass[156] in Louisiana, a student's fractured ankle in gym class in Massachusetts,[157] a public member's slip and fall[158] and a student's rape[159] in Michigan, a roofer's wrongful death[160] and a child and a thrown snowball[161] in New York, a public member's trip and fall in Oklahoma,[162] a public member's sexual assault[163] and a student shot[164] in Pennsylvania, a student's lunchroom accident in South Dakota,[165] an employee and worker's compensation in Texas,[166] spectators and a bleacher collapse in Wisconsin,[167] and others.[168]

Property Crimes

Cases included a burglary in Georgia,[169] property damage in Louisiana,[170] and trespass in Maine.[171]

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151. Poitier v. School Bd., 475 So. 2d 1274 (Fla. Dist. Ct. App. 1985).
152. Thigpen v. McDuffie County Bd. of Educ., 335 S.E.2d 112 (Ga. 1985).
153. Newby v. Lake Zurich Community Unit Dist. 95, 482 N.E.2d 1061 (Ill. App. Ct. 1985).
154. Pedersen v. Joliet Park Dist., 483 N.E.2d 21 (Ill. App. Ct. 1985).
155. Dunne v. Orleans Parish School Bd., 463 So. 2d 1267 (La. 1985). *See* The Yearbook of School Law 1985 at 280.
156. Landry v. Jefferson Davis Parish School Bd., 478 So. 2d 194 (La. Ct. App. 1985).
157. McInnis v. Town of Tewksbury, 473 N.E.2d 1160 (Mass. App. Ct. 1985).
158. Dristy v. Waterford School Dist., 379 N.W.2d 428 (Mich. Ct. App. 1985).
159. Evans v. Detroit Bd. of Educ., 373 N.W.2d 246 (Mich. Ct. App. 1985).
160. Law v. Rochester City School Dist., 486 N.Y.S.2d 540 (N.Y. App. Div. 1985).
161. Carr v. Indian Lake School Dist., 496 N.Y.S.2d 950 (N.Y. App. Div. 1985).
162. Robinson v. City of Bartlesville Bd. of Educ., 700 P.2d 1013 (Okla. 1985).
163. Joner v. Board of Educ., 496 A.2d 1288 (Pa. Commw. Ct. 1985).
164. Ziccardi v. School Dist., 498 A.2d 452 (Pa. Commw. Ct. 1985).
165. Holland v. Yankton School Dist. 63-3, 375 N.W.2d 199 (S.D. 1985).
166. Antwine v. Dallas Indep. School Dist., 698 S.W.2d 226 (Tex. Civ. App. 1985).
167. Schwetz v. Employers Ins. of Wausau, 374 N.W.2d 241 (Wis. Ct. App. 1985).
168. Beardell v. Western Wayne School Dist., 496 A.2d 1373 (Pa. Commw. Ct. 1985); DeKalb County School Dist. v. Bowden, 339 S.E.2d 356 (Ga. Ct. App. 1985); Boltax v. Joy Day Camp, 493 N.Y.S.2d 590 (N.Y. App. Div. 1985); Gomez v. City of N.Y., 496 N.Y.S.2d 216 (N.Y. Sup. Ct. 1985); Garrett v. Grant School Dist. No. 124, 487 N.E.2d 699 (Ill. App. Ct. 1985); Vince v. Ringgold School Dist., 499 A.2d 1148 (Pa. Commw. Ct. 1985); Toney v. South Carolina Dep't of Educ., 327 S.E.2d 322 (S.C. 1985); Fusilier v. Northbrook Excess & Surplus Ins. Co., 471 So. 2d 761 (La. Ct. App. 1985); Inglett v. Louisiana Power and Light Co., 464 So. 2d 790 (La. Ct. App. 1985); Catanzaro v. Wasco Prods., 489 A.2d 262 (Pa. Super Ct. 1985).
169. Jackson v. State, 335 S.E.2d 885 (Ga. Ct. App. 1985).
170. State v. Rollins, 463 So. 2d 843 (La. Ct. App. 1985).
171. State v. Jenness, 490 A.2d 670 (Me. 1985).

SCHOOL CLOSURES

Cases involved seismic testing in the Supreme Court, *Honig v. Students of the California School for the Blind*,[172] closing of an elementary school in the Fourth Circuit,[173] and closing predominately black elementary schools in the Eleventh Circuit.[174] One other case was reported.[175]

HIGHER EDUCATION

State Agencies

Cases involved degree program licensure in the District of Columbia,[176] a university's proposed change into a prison[177] and a proposed transfer of university trust lands[178] in South Dakota, and others.[179]

Board Authority

Cases involved patents and tariffs in the Federal Circuit;[180] defamation in the Fourth,[181] Seventh,[182] and Tenth[183] Circuits; interference with contractual relations in the Sixth Circuit;[184] medical malpractice in the Sixth Circuit,[185] Louisiana,[186] Massachusetts,[187] and New Mex-

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172. 105 S. Ct. 1820 (1985). *See* The Yearbook of School Law 1985 at 284.
173. Pleasant View Elementary School PTA v. Group 1 Defendants, 763 F.2d 652 (4th Cir. 1985).
174. Adams v. Board of Pub. Educ., 770 F.2d 1562 (11th Cir. 1985).
175. Connell v. St. Francis Monastery, 491 N.Y.S.2d 229 (N.Y. Sup. Ct. 1985).
176. Nova Univ. v. Educational Inst. Licensure Comm'n, 483 A.2d 1172 (D.C. 1984).
177. Kanaly v. State, 368 N.W.2d 819 (S.D. 1985).
178. Merkwan v. State, 375 N.W.2d 624 (S.D. 1985).
179. Shepherd v. Brumback, 714 P.2d 450 (Ariz. Ct. App. 1985); Pennsylvania Indus. for the Blind and Handicapped v. Commonwealth State Sys. of Educ., 485 A.2d 1233 (Pa. Commw. Ct. 1985).
180. Massachusetts Inst. of Technology v. AB Fortia, 774 F.2d 1104 (Fed. Cir. 1985).
181. Fleming v. Moore, 780 F.2d 438 (4th Cir. 1985).
182. Brown Univ. v. Kirsch, 757 F.2d 124 (7th Cir. 1985).
183. Burt v. Board of Regents, 757 F.2d 242 (10th Cir. 1985).
184. Carlson v. Highter, 612 F. Supp. 603 (E.D. Tenn. 1985).
185. Baker v. Vanderbilt Univ., 616 F. Supp. 330 (M.D. Tenn. 1985).
186. Sibley v. Board of Supervisors, 477 So. 2d 1094 (La. 1985).
187. Smith v. Steinberg, 481 N.E.2d 1344 (Mass. 1985).

ico;[188] computer purchases in the Seventh Circuit;[189] television antitrust in the Ninth[190] and Tenth[191] Circuits; trademark in the Eleventh Circuit;[192] bidding in Alaska;[193] deceptive practices in Kansas;[194] open meetings in Mississippi;[195] law school accreditation in Missouri;[196] open records in New Mexico;[197] fee recovery from a former employee in New York;[198] and others.[199]

Desegregation

Desegregation of Alabama's system of higher education was ordered in the Eleventh Circuit.[200]

Real Property

Cases involved property exchange in the D.C. Circuit,[201] development in the Third Circuit[202] and New Hampshire,[203] property taxes in

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188. Regents of the Univ. of N.M. v. Armijo, 704 P.2d 428 (N.M. 1985); Clothier v. Lopez, 711 P.2d 870 (N.M. 1985); Chavez v. Regents of the Univ. of N.M., 711 P.2d 883 (N.M. 1985).

189. Computronics, Inc. v. Apple Computer, Inc., 600 F. Supp. 809 (W.D. Wis. 1985).

190. Regents of the Univ. of Cal. v. American Broadcasting Co., 747 F.2d 511 (9th Cir. 1984).

191. Board of Regents v. NCAA, 601 F. Supp. 307 (W.D. Okla. 1984). *See* The Yearbook of School Law 1985 at 352-53.

192. University of Ga. Athletic Ass'n v. Laite, 756 F.2d 1535 (11th Cir. 1985).

193. State v. Nickerson, 711 P.2d 1165 (Alaska 1985).

194. Manley v. Wichita Business College, 701 P.2d 893 (Kan. 1985).

195. Board of Trustees v. Mississippi Publishers Corp., 478 So. 2d 269 (Miss. 1985).

196. *In re* Laclede School of Law, 700 S.W.2d 81 (Mo. 1985).

197. Newsome v. Farer, 708 P.2d 327 (N.M. 1985).

198. Albany Medical College v. McShane, 489 N.E.2d 1278 (N.Y. 1985).

199. Integrated Dev. & Mfg. Co. v. University of Minn., 363 N.W.2d 845 (Minn. Ct. App. 1985); Board of Regents v. Board of Trustees, 479 So. 2d 931 (La. Ct. App. 1985); El Camino Community College Dist. v. Superior Court, 219 Cal. Rptr. 236 (Cal. Ct. App. 1985); Edward Vantine Studios v. Fraternal Composite Serv., 373 N.W.2d 512 (Iowa Ct. App. 1985); Pet, Inc. v. University of N.C., 323 S.E.2d 745 (N.C. Ct. App. 1984); Wiggins v. Creary, 475 So. 2d 780 (La. Ct. App. 1985); Jaar v. University of Miami, 474 So. 2d 239 (Fla. Dist. Ct. App. 1985); Vythoulkas v. Vanderbilt Univ. Hosp., 693 S.W.2d 350 (Tenn. Ct. App. 1985); *In re* Winthrop Univ. Hosp., 490 N.Y.S.2d 996 (N.Y. Spec. Term 1985); Yale Literary Magazine v. Yale Univ., 496 A.2d 201 (Conn. Ct. App. 1985); Texas A&M Univ. v. University Book Store, 683 S.W.2d 140 (Tex. Civ. App. 1984); University of Tex. at Austin v. NCAA, 685 S.W.2d 409 (Tex. Civ. App. 1985).

200. United States v. Alabama, 628 F. Supp. 1137 (N.D. Ala. 1985).

201. National Coal Ass'n v. Hodel, 617 F. Supp. 584 (D.D.C. 1985).

202. Harrisburg Hosp. v. Thornburgh, 616 F. Supp. 699 (M.D. Pa. 1985).

203. Kennett v. City of Nashua, 493 A.2d 458 (N.H. 1985).

Arkansas[204] and the District of Columbia,[205] annexation in Oregon,[206] and others.[207]

Building Design and Construction

Cases involved bonds in Arkansas[208] and Washington,[209] a contractor's claim in New York,[210] design and performance in North Carolina,[211] arbitration in South Carolina,[212] and others.[213]

Facility Maintenance, Operation, and Use

Cases involved the use of facilities in the Supreme Court, *Johnson*

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204. Off-Street Parking Dev. Dist. No. 1 v. City of Fayetteville, 683 S.W.2d 229 (Ark. 1985).

205. District of Columbia v. Trustees of Amherst College, 499 A.2d 918 (D.C. 1985).

206. Heritage Enters. v. City of Corvallis, 708 P.2d 601 (Or. 1985).

207. Kufferman v. Fairfield Univ., 497 A.2d 77 (Conn. Ct. App. 1985); Trustees of Columbia Univ. v. James, 489 N.Y.S.2d 669 (N.Y. App. Div. 1985); East Lake Fork Special Drainage Dist. v. Village of Ivesdale, 484 N.E.2d 507 (Ill. App. Ct. 1985); Illinois Inst. of Technology v. Rosewell, 484 N.E.2d 837 (Ill. App. Ct. 1985); *In re* American College, 500 A.2d 911 (Pa. Commw. Ct. 1985); Adult Student Housing, Inc. v. State, 705 P.2d 793 (Wash. Ct. App. 1985); Culver-Stockton College v. Missouri Power and Light Co., 690 S.W.2d 168 (Mo. Ct. App. 1985); University of Pa. v. Pennsylvania Pub. Util. Comm'n, 485 A.2d 1217 (Pa. Commw. Ct. 1984); Cornell Univ. v. Bagnardi, 486 N.Y.S.2d 964 (N.Y. App. Div. 1985); Jonas v. Town of Colonie, 488 N Y.S.2d 263 (N.Y. App. Div. 1985); Dale v. Zoning Hearing Bd., 496 A.2d 1321 (Pa. Commw. Ct. 1985); Stanford Univ. v. Superior Court, 219 Cal. Rptr. 40 (Cal. Ct. App. 1985); *In re* Central Baptist Theological Seminary, 370 N.W.2d 642 (Minn. Ct. App. 1985).

208. Cortez v. Independence County, 698 S.W.2d 291 (Ark. 1985).

209. Washington Higher Educ. Facilities Auth. v. Gardner, 699 P.2d 1240 (Wash. 1985).

210. John Grace & Co. v. State Univ. Constr. Fund, 475 N.E.2d 105 (N.Y. 1984). *See* The Yearbook of School Law 1985 at 292-93.

211. Trustees of Rowan Tech. College v. J. Hyatt Hammond Assocs., 328 S.E.2d 274 (N.C. 1985).

212. Trident Tech. College v. Lucas & Stubbs, Ltd., 333 S.E.2d 781 (S.C. 1985).

213. Hofstra Univ. v. Boslet, 493 N.Y.S.2d 886 (N.Y. App. Div. 1985); Akron-Canton Chapter, Am. Subcontractors Ass'n v. Ohio Dep't of Admin. Servs., 486 N.E.2d 116 (Ohio Ct. App. 1984); Ames Contracting Co. v. City Univ. of N.Y., 485 N.Y.S.2d 259 (N.Y. App. Div. 1985), *see* The Yearbook of School Law 1984 at 271; Trustees of Columbia Univ. v. Mitchell/Giurgola Assocs., 492 N.Y.S.2d 371 (N.Y. App. Div. 1985); J.R. Stevenson Corp. v. Dormitory Auth., 492 N.Y.S.2d 385 (N.Y. App. Div. 1985); Tarleton State Univ. v. K.A. Sparks Contractor, 695 S.W.2d 362 (Tex. Civ. App. 1985); Sigma Phi Society v. Rensselaer Fraternity Managers Ass'n, 494 N.Y.S.2d 532 (N.Y. App. Div. 1985); Benoit, Inc. v. District Bd. of Trustees, 463 So. 2d 1260 (Fla. Dist. Ct. App. 1985).

v. Pennsylvania State University,[214] crime in the Third[215] and Eleventh[216] Circuits and Wisconsin,[217] personal injuries in the Third Circuit[218] and Rhode Island,[219] and others.[220]

214. 105 S. Ct. 3537 (1985). *See* The Yearbook of School Law 1985 at 278.

215. Miller v. Rutgers Univ., 619 F. Supp. 1386 (D.N.J. 1985).

216. United States v. Posner, 764 F.2d 1535 (11th Cir. 1985). *See* The Yearbook of School Law 1985 at 289.

217. State v. O'Neill, 359 N.W.2d 906 (Wis. 1984).

218. Fassett v. Poch, 625 F. Supp. 324 (E.D. Pa. 1985).

219. Cotrona v. Johnson & Wales College, 501 A.2d 728 (R.I. 1985).

220. Wagner v. Nova Univ., 473 So. 2d 731 (Fla. Dist. Ct. App. 1985); Newbury Junior College v. Town of Brookline, 472 N.E.2d 1373 (Mass. App. Ct. 1985); Bitterman v. Emory Univ., 333 S.E.2d 378 (Ga. Ct. App. 1985); Sawyer v. State, 485 N.Y.S.2d 695 (N.Y. Ct. Cl. 1985); Pugliese v. City of N.Y., 495 N.Y.S.2d 700 (N.Y. App. Div. 1985); University of Tex. at El Paso v. Nava, 701 S.W.2d 71 (Tex. Civ. App. 1985); Allemeier v. University of Wash., 712 P.2d 306 (Wash. Ct. App. 1985); Whitlock v. University of Denver, 712 P.2d 1072 (Colo. Ct. App. 1985); Jansson v. Fairleigh Dickinson Univ., 486 A.2d 920 (N.J. Super. Ct. App. Div. 1985); Mead v. Nassau Community College, 483 N.Y.S.2d 953 (N.Y. Sup. Ct. 1985); Krales v. City Univ. of N.Y., 488 N.Y.S.2d 1005 (N.Y. Ct. Cl. 1985); Karp v. University of N.C., 336 S.E.2d 640 (N.C. Ct. App. 1985); United States Fire Ins. v. Gentile, 712 P.2d 436 (Ariz. Ct. App. 1985); Allen v. County of Westchester, 492 N.Y.S.2d 772 (N.Y. App. Div. 1985); Kay v. Bruno, 605 F. Supp. 767 (D.N.H. 1985).